

1 herein.

2 5. Plaintiff is informed and believes, and thereon  
3 alleges, that each defendant, whether named herein as Doe or  
4 otherwise, acted as an agent, employee, co-conspirator,  
5 partner, joint venturer and associate of each of the remaining  
6 defendants, and in doing the things alleged below, was acting  
7 within the course and scope of such agency, employment,  
8 conspiracy, and association for and with every other defendant.

9 6. Plaintiff was organized for purposes of engaging  
10 in the exercise of free speech and the publication thereof by  
11 and through the operation of a cable television business in the  
12 County of Sacramento and the Cities of Sacramento, Galt and  
13 Folsom and surrounding areas (referred to hereinafter  
14 collectively as "the Sacramento area"). The business of cable  
15 television, like that of newspapers and magazines, is to  
16 provide subscribers with a mixture of news, information and  
17 entertainment. As do newspapers and magazines, cable  
18 television companies use a portion of their available space to  
19 reprint or retransmit the communication of others and, at the  
20 same time, use portions of their available space to transmit  
21 their own original content. A cable television company is not  
22 a public utility, but rather is a recognized member of the  
23 media and is a speaker entitled to exercise its rights to free  
24 expression and to engage in the business of a free press under  
25 the laws and constitution of the State of California.

26 7. A cable television company operating within the  
27 Sacramento area would be a participant in a competitive  
28 submarket where competition in the same marketplace by other

1 members of the same medium is technologically feasible.

2 8. Prior to September 3, 1983, defendant Cities and  
3 County and certain other co-conspirators, including utility  
4 companies, acting both severally and jointly, had elected to  
5 open and to dedicate their respective rights-of-way, easements  
6 and other necessary physical facilities to the provision of  
7 news, information, and entertainment by means of  
8 privately-owned and operated cable television systems within  
9 the Sacramento area, thus constituting said rights-of-way,  
10 easements and facilities as public fora dedicated for the use  
11 of the press and the public for said purpose.

12 9. On or about September 3, 1983, Pac West attempted  
13 to enter the Sacramento market for the purpose above alleged,  
14 and upon being denied the right to do so, commenced an action  
15 in the United States District Court, Eastern District of  
16 California, entitled Pacific West Cable Company v. City of  
17 Sacramento and County of Sacramento, and numbered 83-1034 MLS.

18 10. On or about September 15, 1983, defendants, and  
19 each of them, knew or should have known that plaintiff, a cable  
20 television company, had been formed and was attempting to enter  
21 the Sacramento area for the purpose of competing therein and  
22 was willing at all times to compete with any other providers of  
23 the same service. Thereafter, defendants conspired each with  
24 the other and with other co-conspirators to limit access to  
25 said fora so as to auction off to the highest bidder the sole  
26 use of ways, easements and facilities for said purpose, and to  
27 discriminatorily exclude the plaintiff and others from the use  
28

1 or cable television purposes of said ways, easements and  
2 facilities.

3 11. Pursuant to said conspiracy, defendants Cities,  
4 County, Commission, Smith, Does 1-49 and others entered into a  
5 plan, scheme and conspiracy to solicit illegal payments from  
6 potential providers of cable television service. These  
7 payments are illegal in that they amount to bribes to said  
8 conspirators and to those they politically favored and to those  
9 whose favors they coveted. Prior to the date hereof defendant  
10 Sacramento Cable Television, Richard Davis, and Does 50-100,  
11 and other co-conspirators, joined the conspiracy heretofore  
12 referred to, by, among other overt acts, entering into  
13 agreements to make and making said illegal payments (and  
14 agreeing to make more of the same) in exchange for the de facto  
15 exclusive right to provide news, information and entertainment  
16 by means of cable television within the Sacramento area free  
17 from competition from other cable television companies. Said

1 Commission, ostensibly as a lawful joint powers agency, but  
2 really as an agent of said illegal conspiracy, to search for  
3 and find the cable television company willing to pay the most  
4 to or for the account of said defendants in exchange for de  
5 facto exclusivity as the cable television provider. The  
6 purpose and effect of the formation of defendant Commission was  
7 to illegally deny to plaintiff herein, and to all but their  
8 chosen co-conspirators, rights and privileges guaranteed to  
9 plaintiff by the constitution and laws of the State of  
10 California.

11 13. In furtherance of said plan, scheme and  
12 conspiracy, and in consideration for promises to pay, and in  
13 certain instances for the actual payment of substantial sums to  
14 or for the account of said defendants over a period of years in  
15 cash and in kind and by way of subsidized equity interests,  
16 defendants Sacramento Cable Television, Commission and Smith,  
17 among others, have acted to execute an agreement providing for,  
18 among other things, de facto exclusivity for Sacramento Cable  
19 Television in the cable television business in the Sacramento  
20 area; the construction of a dual cable residential cable  
21 television system of some 3,000 miles and an "institutional  
22 network" of some 800 miles. Said sums, which sums are in  
23 excess of Fifty Million Dollars (\$50,000,000), whether in cash  
24 or in kind, would not otherwise have been required to build and  
25 operate a state-of-the-art cable television system in said area.

26 14. In furtherance of said plan, scheme and  
27 conspiracy, and in an effort and with the intent to maintain  
28 said de facto exclusivity and the continued payment and receipt

1 of the sums of money and things of value in exchange therefor,  
2 and for the purpose of heading off the possibility of  
3 competition from other cable television companies, defendants  
4 Sacramento Cable Television, Smith, Commission, Davis, and the  
5 Cities and County have amended their agreements, one with the  
6 other, so as to alter published and agreed upon construction  
7 schedules. In addition, and in furtherance of their illegal  
8 goals and in exchange for a reduction in the construction  
9 obligations on the part of Sacramento Cable Television of some  
10 Fifty Million Dollars (\$50,000,000), defendants Sacramento  
11 Cable Television and Commission and others negotiated an  
12 amendment to their "franchise agreement" in an attempt to make  
13 defendant Sacramento Cable Television an indemnitor of  
14 defendant Commission, Cities and County for liability against  
15 all wrongs done to, among others, plaintiff herein.

16 15. Being well aware of the efforts of plaintiff  
17 herein to provide cable television service in the said Cities  
18 and County, and being conscious of previous court rulings  
19 indicating that plaintiff would likely be able in the future to  
20 obtain judicial enforcement of its rights as a cable television  
21 operator and member of the press, and for the purpose of  
22 denying to plaintiff said rights, or of delaying the same until  
23 Sacramento Cable Television could obtain such a head start as  
24 to be able to dominate the market and unfairly prevent  
25 effective competition from plaintiff herein, Sacramento Cable  
26 Television offered to pay and has paid and has agreed to  
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1 for as long as defendants County, Cities, Commission and Smith  
2 were and are successful in maintaining de facto exclusivity for  
3 Sacramento Cable Television. Sacramento Cable Television would  
4 not otherwise have expended or agreed to expend such vast sums  
5 in order to operate as a cable television provider.

6 16. Defendants and each of them, in furtherance of  
7 said conspiracy have entered into agreements, each with the  
8 others, have made payments to each other and to others, have  
9 designed and redesigned the cable system of Sacramento Cable  
10 Television for the purpose of insuring said defendant a  
11 substantial competitive advantage over plaintiff and any other  
12 potential cable company.

13 17. Plaintiff has the desire, ability and right to  
14 engage in protected expression by way of speech and press to  
15 publish news, information and entertainment, including enhanced  
16 services by and through the operation of a cable television  
17 system in, among other places, the defendant Cities and  
18 County. Plaintiff is, and has been, ready, willing and able to  
19 operate such a cable television system, and has been and is  
20 willing to abide by any and all legal and reasonable  
21 regulations of all affected utility companies, and all legal  
22 and reasonable police power rules and regulations of all  
23 affected cities and counties. There is no legal or physical  
24 reason why plaintiff should not be allowed to compete in the  
25 provision of cable television services in defendant Cities and  
26 County.

27 18. Based upon the actions of defendant Cities and  
28 County and defendant Commission, the Sacramento Municipal

1 Utility District and Pacific Bell telephone have refused  
2 plaintiff access to ways, easements and facilities for the  
3 purpose of engaging in the cable television business.

4 19. As a part of the actions and conspiracies alleged  
5 above, defendant Cities and County have refused, under any  
6 circumstances or on any terms and conditions, to permit  
7 plaintiff to operate the lawful business of providing cable  
8 television services in the Sacramento area, and have refused to  
9 allow plaintiff to exercise free speech and press rights  
10 through cable television dissemination within their  
11 jurisdictions.

12 20. Each and every act of defendants, and each of  
13 them, in adopting and overtly acting to accomplish the purposes  
14 of the conspiracy herein alleged, was committed with malicious  
15 intent for the purpose of oppressing plaintiff and obtaining  
16 illegal advantage therefrom. thereby entitling plaintiff to

1           22. Defendants' actions, as described above, have  
2 denied and continue to deny plaintiff's rights of free speech  
3 and press guaranteed to it under Article 1, section 2, of the  
4 California Constitution.

5           23. The acts alleged above were committed in  
6 furtherance of a conspiracy among defendants and other  
7 co-conspirators with the specific intent of depriving plaintiff  
8 of its constitutional rights to express itself, and to engage  
9 in the lawful business of publishing.

10           24. Plaintiff has no adequate legal, administrative  
11 or other remedy by which to prevent or minimize the continuing  
12 irreparable harm to its constitutional rights. Unless the  
13 defendants are enjoined from committing the above-described  
14 violations of freedoms of speech and press, plaintiff will  
15 continue to suffer great and irreparable harm as alleged above.

16           25. As a proximate result of defendants' actions





1 alleges as follows.

2 27. Defendants' actions have aided and incited  
3 co-conspirators Pacific Bell and Sacramento Municipal Utility  
4 District to deny plaintiff full and equal use advantages, and  
5 services of their facilities as guaranteed by the Unruh Civil  
6 Rights Act.

7 28. Plaintiff is informed and believes, and thereon  
8 alleges, that some or all of the acts alleged above were  
9 committed in furtherance of a conspiracy among defendants and  
10 other co-conspirators with the specific intent of denying  
11 plaintiff the full and equal use of said facilities, which use  
12 is necessary for plaintiff's exercise of its constitutional  
13 rights of expression.

14 29. Plaintiff has no adequate legal, administrative  
15 or other remedy by which to prevent or minimize the continuing  
16 harm to its civil rights. Unless the defendants are enjoined  
17 from conspiring to commit the above-described violations,  
18 plaintiff will continue to suffer great and irreparable harm as  
19 alleged above.

20 30. As a proximate result of defendants' actions  
21 described above, plaintiff has been damaged in a substantial  
22 amount, exceeding Twenty-five Thousand Dollars (\$25,000), and  
23 approximating Fifty Million Dollars (\$50,000,000), the exact  
24 amount of which will be set forth when ascertained.

25 WHEREFORE, plaintiff prays for relief as hereinafter  
26 set forth.

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1 system within the areas aforesaid.

2 35. Plaintiff is informed and believes and thereon  
3 alleges that unless enjoined by this Court, defendants and  
4 their co-conspirators will continue to take actions which will  
5 unreasonably restrain said trade.

6 36. As a proximate result of defendants' actions  
7 described above, plaintiff has been damaged in a substantial

1 the County of Sacramento; and ordering defendants City of  
2 Sacramento, Commission and Smith to do whatever is in their  
3 power to allow plaintiff to operate a cable television system  
4 in all of said territories.

5 D. For general and special damages in such amounts as  
6 are proved;

7 E. For punitive damages in amounts found appropriate;

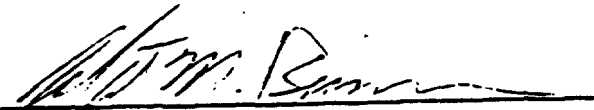
8 F. For costs of suit, including reasonable attorney's  
9 fees;

10 G. For such other and further relief as this Court  
11 deems proper.

12  
13 Respectfully submitted,

14 FARROW, SCHILDHAUSE & RAINS

15  
16 Dated: 1/27/86

  
17 HAROLD R. FARROW  
18 ROBERT M. BRAMSON  
19 401 Grand Avenue, Suite 200  
20 Oakland, California 94610  
21 (415) 839-4500

22 Attorneys for Plaintiff.  
23  
24  
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7 San Jose, CA 95115  
(408) 298-5678  
8

9 Attorneys for Plaintiff

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF SACRAMENTO

12 PACIFIC WEST CABLE COMPANY,  
13 a partnership;

14 Plaintiff,

15 v.

16 CITY OF FOLSOM, CITY OF CALT,  
17 CITY OF SACRAMENTO, CALIFORNIA  
all municipal corporations;  
18 COUNTY OF SACRAMENTO, CALIFORNIA,  
a California County;  
19 SACRAMENTO CABLE TELEVISION,  
a general partnership;  
20 SCRIPPS-HOWARD CABLE COMPANY OF  
SACRAMENTO, a corporation wholly-  
21 owned by Scripps-Howard  
Broadcasting Company, a  
22 corporation; SACRAMENTO  
METROPOLITAN CABLE TELEVISION  
23 COMMISSION, an entity holding  
itself out as a public agency;  
24 ROBERT SMITH; RICHARD DAVIS; and  
DOES 1 through 100,

25 Defendants.  
26  
27  
28

) NO. 336798

) PLAINTIFF'S RESPONSES TO  
) INTERROGATORIES OF  
) DEFENDANT SACRAMENTO CABLE  
) TELEVISION [SET ONE]

1 Services, Cable Americal, Iacopi Cable Company and King Video  
2 Cable.

3 Please see SCT's letter to the Commission dated  
4 December 30, 1985 seeking the consent of defendants Smith and  
5 the Commission to the defense to the payment of said bribes.

6 See also exhibits to the deposition of Rodney A.  
7 Hansen, Volumes 1-5 in the federal court litigation. Further  
8 such documents include all memorialized contacts between  
9 attorneys for plaintiff and attorneys for defendant City and  
10 County in the federal court litigation, letter dated March 20,  
11 1985 from plaintiff's attorney to the City of Folsom, letter  
12 dated March 27, 1985 from Folsom's attorney to plaintiff's  
13 attorney, letter dated January 24, 1986 to defendant City,  
County, Galt, Folsom and Commission, letter dated August 30,

1 defendant (SCT) a substantial competitive advantage over  
2 plaintiff and any other potential cable company...."

3 (Complaint, page 8, lines 6 through 12).

4 Response to Interrogatory No. 3:

5 See response to Interrogatory No. 1, above. See also  
6 deposition testimony of Richard Davis in the federal  
7 litigation, and the various maps and documents setting forth  
8 Sacramento Cable Television's changes in construction schedule,  
9 including letters dated May 24, 1985, December 18, 1985 and  
10 March 20, 1986.

11 SCT's General Manager, defendant Richard Davis, has  
12 testified that as early as October or November 1984, a "general  
13 consensus" was reached among Mr. Jarvis, Mr. Callaghan  
14 (Scripps-Howard's Vice President) and himself that the Scripps  
15 Cablevision application for the Sacramento franchise was  
16 considerably overinflated in "areas of revenue and subscriber  
17 projections." (Davis depo. at 31-34, 36). Davis also  
18 testified that the application's "pay to basic" ratios of about  
19 4 to 1 "would never be achieved" based on Scripps-Howard's  
20 experiences in other urban area cable system builds, and that a  
21 2 to 1 ratio was realistic. Id. at 37.

22 In or around January 1985, after the franchise had  
23 been awarded and Scripps-Howard had taken over Cablevision's  
24 interest in the franchise, defendants Scripps-Howard and  
25 Commission began to discuss a scaling back of SCT's franchise  
26 requirements; such concessions were the product, inter alia, of  
27 SCT's overinflated original bid. Id. at 49. In early January  
28 1985, defendant Davis asked defendant Smith to arrange meetings

1 between Scripps-Howard representatives and members of the  
2 Commission to discuss such "modifications." Id. at 50.

3 Several such meetings occurred and are described by Davis at  
4 pages 52-68 of his deposition in the federal litigation.

5 In March 1985, defendant Commission approved of  
6 Scripps-Howard's requested "modifications," amounting to at  
7 least an admitted \$20 million cut-back in the original  
8 franchise agreement. Id. at 138. These concessions constitute  
9 material changes in the franchise agreement, which was supposed  
10 to embody SCT's application offerings as proposed. Such  
11 concessions included: (1) a 6-fold increase to \$12 in SCT's  
12 basic service rate over its promised \$2 rate (id. at 125-26);  
13 and (2) a substantial reduction in SCT's system channel  
14 capacity (id. at 55-57) at a savings to SCT of amounts  
15 substantially in excess of the admitted savings.

16 Defendants Commission and Scripps-Howard also agreed to  
17 change SCT's construction schedule considerably. See id. at 69  
18 et seq. See also, the materials attached to Sacramento  
19 Metropolitan Cable Television Commission agenda for January 9,  
20 1986. In particular, defendants agreed to speed up cable  
21 system construction in the Citrus Heights area of Sacramento  
22 County abutting the community of Roseville, from construction  
23 year two or three to construction year one. (Davis Depo. at  
24 70-71). The principal aim of building the area neighboring  
25 Roseville quickly was to head off competition from the cable  
26 company operating in Roseville which defendants knew desired to  
27 expand service into Sacramento County. Id. at 72. Davis  
28 testified that the cable company that "gets on the poles first"



1 obtains a significant competitive advantage vis-a-vis  
2 subsequent market entrants. Id. at 100-101. Thus, by  
3 immediately building Citrus Heights, SCT and Scripps-Howard  
4 hoped to gain such a competitive advantage against the  
5 Roseville cable company, which would be forced to "overbuild"  
6 SCT, id. at 72, 74, 150, and believed that the move would  
7 effectively block the Roseville cable operator from entering  
8 the market. Id. at 150-51.

9 The simultaneous effect of the immediate construction  
10 of Citrus Heights is to protect the goal of the defendant-local  
11 governments of maintaining the anti-competitive "benefits"  
12 which flow to them from monopoly franchising. Indeed, Davis  
13 and SCT's controller, Mr. Reynolds, discussed the possibility  
14 of head-to-head competition in Sacramento from a second cable  
15 company, and concluded that "it was worse economically for

## INDEMNITY AGREEMENT

Indemnity Agreement made this 12th day of March, 1985, by and between SACRAMENTO CABLE TELEVISION, a California general partnership, and SCRIPPS-HOWARD CABLE COMPANY OF SACRAMENTO, an Delaware corporation, RIVER CITY CABLEVISION, INC., a California corporation and SCRIPPS-HOWARD BROADCASTING COMPANY, an Ohio corporation (hereinafter jointly and severally referred to as "INDEMNITOR"), and SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION, a joint powers agency, THE COUNTY OF SACRAMENTO, THE CITY OF SACRAMENTO, THE CITY OF GALT, THE CITY OF FOLSOM and the officers and employees of each of the foregoing entities (hereinafter jointly and severally referred to as "INDEMNITEE").

WHEREAS, INDEMNITOR is the franchisee of INDEMNITEE as to a cable television franchise granted on November 22, 1983 pursuant to a cable television ordinance and resolution enacted by INDEMNITEE (hereinafter the "Franchise Documents"); and

WHEREAS, INDEMNITOR has requested that INDEMNITEE make certain modifications, alterations, amendments, and clarifications to the aforesaid Franchise Documents including the approval of an alternative system design; and

WHEREAS, INDEMNITEE believes that the adoption of such requested modifications, alterations, amendments and clarifications will serve the public interest; and

WHEREAS, INDEMNITEE has agreed to enact and adopt such modifications, alterations, amendments, and clarifications by means of their certain Resolutions numbered 85-001 of the Sacramento Metropolitan Cable Television Commission, 85-264 of County of Sacramento, 85-196 of the City of Sacramento, 85-26 of the City of Galt, and ~~85-1763~~ of the City of Folsom (hereinafter collectively referred to as the "Amending Resolutions" and attached hereto as Exhibit "A"); and

WHEREAS, the aforesaid modifications, alterations, amendments, and clarifications are acceptable to the INDEMNITEE only upon the express condition that this Agreement be executed by INDEMNITOR;

NOW THEREFORE, in consideration of the benefits flowing to INDEMNITOR by reason of the modifications, alterations, amendments, and clarifications, as set forth in the Amending Resolutions, the parties hereto agree as follows:

## Indemnity Agreement

1. Scope of Indemnity. Subject to the provisions of this Agreement, INDEMNITOR undertakes to indemnify INDEMNITEE and its officers and employees from any and all liability, losses, or damages, including costs of defense, which INDEMNITEE may suffer as a result of claims, demands, costs, or judgments against INDEMNITEE related to, arising out of or by reason of, or purporting to be related to, arise out of or by reason of, to any degree whatsoever, the enactment of the Amending Resolutions.

2. Limitation of Liability.

a. INDEMNITOR's liability under this contract as to any claim or demand arising out of the subject matter with respect to which indemnification is provided by this Agreement shall be unlimited as to amount as to any of the persons or entities named below or any of their affiliates (as such term is defined in Section 602(1) of the Cable Communications Policy Act of 1984):

- (1) Charles F. Dolan;
- (2) Cablevision Systems Corporation;
- (3) Cablevision Systems Sacramento Corporation;
- (4) United Telecommunications of Sacramento;
- (5) United Cable Television of Sacramento, Inc.;
- (6) Sacramento Telecommunications, Inc.;
- (7) United Cable Television Corporation; and
- (8) TCI Development Corporation.

b. Except as provided in subparagraph a. above, INDEMNITOR's liability under this Agreement, including but not limited to any and all claims, demands, judgments, expenses, attorney's fees or costs arising out of the subject matter with respect to which indemnification is provided by this Agreement, shall be limited to the sum of ONE MILLION DOLLARS (\$1,000,000) in the aggregate.

c. The foregoing provisions of this Paragraph notwithstanding, INDEMNITOR shall have no liability under this Agreement:

(1) where INDEMNITEE is found guilty of gross negligence, wilful or wanton misconduct or fraud; or

(2) as to any portion of a judgment or award rendered

## Indemnity Agreement

resolutions.

3. Period Covered. The indemnity herein provided will extend from the date of this Agreement as first above written until the expiration of any applicable period(s) of limitations, but shall in no event extend beyond December 23, 2003.

4. Selection of Representation- Unlimited Liability. As to any claim or demand arising out of the subject matter with respect to which indemnification is provided by this Agreement and which is subject to the provisions of subparagraph a. of Paragraph 2. above, INDEMNITOR shall be entitled at its own expense to participate in the defense of any action, suit or proceeding against, or investigation or inquiry of, INDEMNITEE. INDEMNITOR shall be entitled, if it so elects within a reasonable time after receipt of the Notice (defined in Paragraph 6 below), by giving written notice (herein called the "Notice of Defense") to INDEMNITEE, to assume the entire defense of such claim or demand, in which event such defense shall be conducted, at the expense of INDEMNITOR, by counsel chosen by INDEMNITOR and reasonably satisfactory to INDEMNITEE. If, within a reasonable time after receipt of the Notice, INDEMNITOR gives a Notice of Defense and the counsel chosen by INDEMNITOR is reasonably satisfactory to INDEMNITEE, INDEMNITOR will not be liable under Paragraph 2. hereof for any legal or other expense subsequently incurred by INDEMNITEE in connection with the defense of such claim or demand except that (a) INDEMNITOR shall bear the legal and other expenses incurred by it in connection with the conduct of the defense of the claim or demand and (b) INDEMNITOR shall bear such other expenses as it has authorized hereunder. If, within a reasonable time after receipt of the Notice, no Notice of Defense has been given, INDEMNITOR shall be responsible for any legal or other expenses reasonably incurred by INDEMNITEE in connection with the defense of the claim or demand as aforesaid.

5. Selection of Representation- Limited Liability. As to any claim or demand arising out of the subject matter with respect to which indemnification is provided by this Agreement and which is subject to the limitation provisions of subparagraph b. of Paragraph 2. above, INDEMNITEE shall have the right to select its own counsel, subject to the approval of INDEMNITOR, which approval shall not be unreasonably withheld.

6. Notice of Claim Against Indemnatee. INDEMNITEE

## Indemnity Agreement

shall promptly give INDEMNITOR notice of any claim against INDEMNITEE with respect to the subject matter of this Agreement (herein called "the Notice"), and in any event, within fifteen (15) days after the earlier of (i) discovery of the existence of a formal claim or demand, or (ii) receipt by INDEMNITEE of a formal claim or demand. Any notice or request to be given by a party hereto shall be in writing and shall be delivered personally or sent by registered mail addressed as set forth below:

If to Sacramento Cable Television:

Indemnity Agreement

With copy to:

D. Steven Blake, Esq.  
Downey, Brand, Seymour & Rohwer  
555 Capital Mall  
Sacramento, CA 95814

If to Scripps-Howard Broadcasting Company:

Scripps-Howard Broadcasting Company  
3001 Euclid Avenue  
Cleveland, OH 44115

Attention: Donald L. Perris, President

With copy to:

Robert G. Markey, Esq.  
Baker & Hostetler  
3200 National City Center  
Cleveland, OH 44114

If to Sacramento Metropolitan Cable Television  
Commission:

Sacramento Metropolitan Cable Television Commission  
Suite 2500  
700 "H" Street  
Sacramento, California 95814

Attention: Robert E. Smith

Copy to:

Brenton A. Bleier, Esq.  
Law Offices of Brenton A. Bleier  
A Professional Corporation  
1001 "G" Street, Suite 101  
Sacramento, California 95814

If to the City of Sacramento:

City of Sacramento  
City Hall  
915 "I" Street  
Sacramento, California 95814

Indemnity Agreement

Attention: City Clerk

Copy to:

James P. Jackson, Esq.  
City Attorney  
812 10th Street  
Sacramento, California 95814

If to the County of Sacramento:

County of Sacramento  
700 "H" Street, Suite 2450  
Sacramento, California 95814

Attention: Clerk of the Board of Supervisors

Copy to:

Lee B. Elam, Esq.  
County Counsel  
700 "H" Street, Suite 2650  
Sacramento, California 95814

If to the City of Galt:

City of Galt  
P.O. Box 97  
Galt, California 95632

Attention: City Manager

With copy to:

John W. Stovall, Esq.  
Neumiller & Beardslee  
509 West Weber Avenue  
No. 2- Fifth Floor  
Stockton, California

If to the City of Folsom:

City of Folsom  
City Hall  
50 Natoma  
Folsom, California

With copy to:

## Indemnity Agreement

Philip Mering, Esq.  
901 H Street, Suite 604  
Sacramento, California 95814

or to such other address as the parties hereto shall designate in conformity with the foregoing.

No indemnification provided for in this Agreement shall be available to any party who shall fail so to give the Notice if the party to whom such Notice was not given was unaware of the claim, demand, action or proceeding to which the Notice would have related and was prejudiced by failure to give the Notice.

7. Expenses, Attorney's Fees, and Costs. Subject to the provisions and limitations of Paragraphs 2, 4. and 5. above, should it become necessary for purposes of resisting, adjusting, or compromising any claims or demands arising out of the subject matter with respect to which indemnification is provided and authorized by this Agreement, or for purposes of enforcing this Agreement, for INDEMNITEE to incur any expense, or become obligated to pay any attorney's fees or court costs, INDEMNITOR agrees to reimburse INDEMNITEE for such expenses, attorney's fees, or costs reasonably incurred by INDEMNITEE hereunder within a reasonable time, in no event to exceed thirty (30) days, after receiving reasonable evidence from INDEMNITEE of the payment of such expenses, attorneys's fees, or costs.

The foregoing provisions of this Paragraph 7. notwithstanding, in any action, suit or proceeding in which there exist (i) causes of action arising out of the subject matter with respect to which indemnification is provided by this Agreement ("related claims") and (ii) causes of action which are not covered by the covenants of indemnity hereunder ("unrelated claims"), expenses, attorney's fees and costs shall be apportioned as follows:

a. where liability is ultimately established and a judgement rendered, INDEMNITOR's obligations of reimbursement hereunder shall be limited to an amount derived where the total amount of expenses, attorney's fees and costs are multiplied by a fraction, the numerator of which is that portion of the final judgement awarded upon the related claims and the denominator of which is the total amount of such final judgement; and



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b. where no liability is ultimately established or where such action suit or proceeding is ultimately settled, compromised or dismissed, INDEMNITOR's obligations of reimbursement hereunder shall be as agreed by the parties pursuant to good faith negotiation, or failing such agreement by arbitration (pursuant to Section 5.50.830 et seq. of the Ordinance), giving appropriate recognition and weight to the scope of the action, suit or proceeding, the causes of action alleged therein, and the relative expenditure of time associated with each such cause of action.

### 8. Settlement of Claims.

a. As to any claim or demand arising out of the subject matter with respect to which indemnification is provided by this Agreement and which is subject to the provisions of subparagraph a. of Paragraph 2. above, no such claim or demand may be compromised, settled or otherwise admitted without the prior written consent of INDEMNITOR first had and obtained.

b. As to any claim or demand arising out of the subject matter with respect to which indemnification is provided by this Agreement and which is subject to the provisions of subparagraph b. of Paragraph 2. above, no such claim or demand which is less than the aggregate unpaid liability of INDEMNITOR thereunder may be compromised, settled or otherwise admitted without the prior written consent of INDEMNITOR first had and obtained. As to any such claim or demand which is greater than the aggregate unpaid liability of INDEMNITOR, if INDEMNITOR rejects an offer of settlement and compromise which is acceptable to INDEMNITEE and thereafter INDEMNITEE incurs a judgement which exceeds in amount such compromise offer, then INDEMNITOR shall, in addition to its obligations under subparagraph b. of Paragraph 2. above, be liable to INDEMNITEE in the amount by which the ultimate judgement, together with any expenses, attorney's fee and costs reasonably incurred by INDEMNITEE subsequent to the date of rejection of the offer of settlement and compromise, exceeds the offer of settlement and compromise.

c. The parties hereto shall at all times have a duty of good faith and fair dealing toward one another.

9. Interest. INDEMNITOR shall pay INDEMNITEE interest at an annual rate of interest equal to the lesser of (i) the so-called "prime rate" of the Bank of America N.T. & S.A. or (ii) twelve (12) percent on all expenses or costs